

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOHN and JANE DOE, AS NEXT	§	
FRIENDS OF CHILD DOE, A MINOR	§	
	§	
Plaintiffs	§	
vs.	§	
	§	
LA VERNIA INDEPENDENT SCHOOL	§	CIVIL ACTION NO.: 5:17-cv-1195-OLG
DISTRICT	§	
	§	
Defendants	§	JURY DEMAND

DEFENDANT’S RESPONSE TO PLAINTIFFS’ MOTION TO AMEND COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Defendant, La Vernia Independent School District (“LVISD” or “the District”) and files this Response to Plaintiffs’ Motion to Amend Complaint (Dkt. No. 6). Because it appears that Plaintiffs have requested to amend their Complaint for the first time within the time period allowed for amendment as a matter of course under FRCP 15(a)(1)(b), any opposition by Defendant seems unlikely to succeed.

1. Plaintiffs filed their Complaint on November 21, 2017. Dkt. No. 1.
2. Defendant filed its Motion to Dismiss pursuant to FRCP 12(b)(6) on December 19, 2017. Dkt. No. 4.
3. Plaintiffs filed their Motion for Leave to Amend Plaintiffs’ Original Complaint on December 27, 2017. Dkt. No. 6. This was Plaintiffs’ first request to amend their Complaint. *See id.*
4. Because counsel for Defendant were out of the office and state/country for previously scheduled holiday travel during the seven day time period allowed for response to non-dispositive

motions under Local CV-7, defense counsel's office filed an opposed motion for leave for an additional two days to respond to Plaintiffs' motion for leave to amend on January 3, 2018. Dkt. No. 8.

5. Upon defense counsel's return to the office and review of Plaintiffs' motion for leave to amend, it appears that Plaintiffs have requested a first amendment to their complaint within the time period allowed under FRCP 15(a)(1)(B) for amendment as a matter of course. If a pleading is one to which a responsive pleading is required, "[a] party may amend its pleading once as a matter of course within...21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Plaintiffs filed their motion for leave to amend, accompanied by their First Amended Complaint on December 27, 2017, within 21 days of service of Defendant's Rule 12(b) motion to dismiss. *See* Dkt. Nos. 4 *and* 6.

6. Because it appears that Plaintiffs have requested to amend their Complaint within the parameters for amendment as a matter of course, Defendant is unlikely to succeed in opposing Plaintiffs' request to amend their Original Complaint. Instead, Defendant respectfully requests that the Court issue an Order stating the date that Plaintiffs' First Amended Complaint is deemed filed, so that it may promptly and appropriately respond.

Respectfully Submitted,

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 5th day of January, 2018, a true and correct copy of the above and foregoing was electronically filed with the Clerk of the Court using CM/ECF system, which will send notification of such filing to the following:

PLAINTIFFS' COUNSEL:

Tim Maloney
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/s/ D. Craig Wood
D. Craig Wood